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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,010	04/19/2004	Kent Christian Johnson	APMED-001A	2521

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

EXAMINER

ANGEBRANNDT, MARTIN J

ART UNIT	PAPER NUMBER
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1756

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/827,010

Applicant(s)

JOHNSON ET AL.

Examiner

Martin J. Angebrannt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/1/04, 8/20/04 & 7/13/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/1/04, 8/20/04 & 7/13/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,6-12,14-18,20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien '839, in view of Nakano et al. '563.

O'Brien '839 teaches with respect to figure 1 a substrate comprising a flexible substrate (33) of polycarbonate or resin, with digital data embossed (37) therein, a reflective layer of 30 nm of aluminum or the like (31), a print layer (29) formed on the backside of the print layer (substrate, 21) and a lenticular array (23). The lenticular elements may be applied or etched/embossed into the film (3/60-4/16 and 5/25-38). The print layer and the reflective layer may be bonded to each other using known methods (3/52-60). Plural images are formed in area (29) (4/6-16). There is a reference to Gottfried et al. '987 (3/18-22).

Nakano et al. '563 teaches with respect to figure 3, optical recording media having substrates (1) which are embossed with data and overcoated with a reflection film, an adhesive layer (5) is applied and a second substrate (4) which is printed on both sides (6,7) to provide a stereoscopic/depth viewing effect. The second substrate may be polycarbonate (8/44-54).

The examiner holds that the print layer (21) is a substrate within the meaning of the claims. It would have been obvious to one skilled in the art to modify the invention of O'Brien '839 by using a bonding layer to attach the print layer with a reasonable expectation as this is known in the art for adhering substrates bearing three dimensional images as evidenced by Nakano et al. '563. The claims embrace the lenticular elements being applied as well as

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embossed in the print layer and to address the case where they are embossed in the layer, the examiner holds that it would have been obvious to modify the media resulting from the combination of O'Brien '839 and Nakano et al. '563 discussed above by embossing or etching the lenticular element directly in the polycarbonate layer.

The limitation of claim 21 is held to include a jewel case (commonly supplied with optical discs), which is entirely transparent and the aperture is the entire side of that jewel case and the use of these cases with the disc media claimed in considered obvious to one skilled in the art on the basis of the prevalence of the jewel cases with most CDs sold and most burnable DVDs on the market at the time the invention was made.

With respect to the limitation relating to customer oriented images and anticounterfeiting images, the examiner holds that these are met by plural images until the claims distinguish between the content of the two as the plural interlaced images will serve both inform the consumer of the contents and due to the stereoscopic nature of the image provide an assurance of being a genuine article to the consumer based upon the difficulty in forming a counterfeit article

3. Claims 1-12,14-18,20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien '839, in view of Nakano et al. '563, further in view of Gottfried et al. '987.

Gottfried et al. '987 teaches forming interlaced images directly onto lenticular lenses. The lenses may be formed of PETG, polystyrene, polyethylene, polyacrylates, polymethacrylates, PET, polypropylene, polybutylene,, polycarbonate, PVC, plastic, etc (12/39-44). The printing of the images on the backside of the lenticular lenses using a printing press, ink jet, photographic processes or laser printers (12/45-61). Goggins et al. '451 is discussed (2/49)

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In addition to the basis provided above and to address those embodiments not rendered obvious above, it would have been obvious to one skilled in the art to modify the media and processes for forming them rendered obvious by the combination of O'Brien '839 and Nakano et al. '563 by using the printing techniques and lenticular lens materials disclosed by Gottfried et al. '987 based upon the direction to Gottfried et al. '987 within O'Brien '839.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien '839, combined with Nakano et al. '563 and Gottfried et al. '987, further in view of Sharpless, Graham. "CD and DVD Disc manufacturing, 23 pages (07/2003), Goggins et al. '451 and Jacobsen '344.

Sharpless, Graham. "CD and DVD Disc manufacturing, 23 pages (07/2003) describes the use of various bonding methods, including UV cured and hot melt bonding (page 17/23).

Goggins et al. '451 disclose the use of lithographic printing to form images to be viewed through lenticular lenses. (throughout, see 6/57-7/33).

Jacobsen '344 teaches the use of various printing techniques on lenticular elements, including web offset, flexographic, rotogravure (2/ 58+)

To address the embodiments not discussed above, the examiner holds that it would have been obvious to modify the optical recording media and processes for forming them rendered obvious by the combination of O'Brien '839 with Nakano et al. '563 and Gottfried et al. '987 by using other bonding means such as hot bonding taught by Sharpless, Graham. "CD and DVD Disc manufacturing, 23 pages (07/2003) for use with CDs and DVDs and/or printing methods known in the art to form interlaced images using known printing techniques, such as lithography,

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web printing, gravure and flexographic printing based upon these being known in the art for forming interlaced images as evidenced by Goggins et al. '451 and Jacobsen '344.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/927209 (US 2005/0233141). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are open to the presence of a dyes based recording layer.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

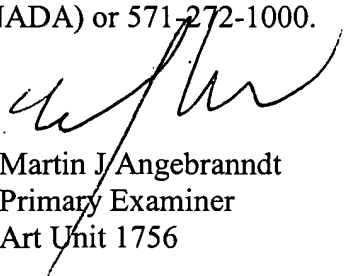
Tompkin et al. '109 teach lenticular elements formed in optical recording media with central substrates.

Fantone et al. '382 and 068 and JP 05-040242 teach jewel cases with lenticular elements therein.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin J. Angebrannndt whose telephone number is 571-272-1378. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Martin J. Angebrannndt
Primary Examiner
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12/29/2006